

LPO NETWORK

Linking Users & Providers of Legal Process Outsourcing (LPO) Services
CORPORATE RISK ADVISORS, LLC • www.corpriskadvisors.com

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A Word from the Editor-in-Chief by Andrea Lee Negroni



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Welcome to the launch issue of **LPO Network**, designed as a resource for the providers of LPO services and their clients. **LPO Network** is a monthly free electronic newsletter, and a service of Corporate Risk Advisors, LLC, a Washington DC-based consulting firm.

As a practicing attorney for 25 years, and Editor-in-Chief of **LPO Network**, I am keen to explore any new initiative in the legal profession, and the rise of legal process outsourcing is one of the most exciting developments of late. In talking with lawyers and other business professionals who have formed LPO companies, I sense a distinct enthusiasm for the possibility of changing the way legal services are rendered, with benefits to both attorneys and their clients.

We have gathered a truly distinguished Board of Editors who will contribute their insights and experiences to our publication, to pave the way for others to participate in this phenomenon. Continuing one of the most cherished traditions in the legal profession, that of professional courtesy, we will promote knowledge of the LPO industry even though we may occasionally be competitors, in the belief that knowledge building helps us all.

Ananth Nayak, CEO, Exactus Corporation



Hiren P. Patel, Co-Founder, Aphelion Legal Solutions



Sundari Pisupati, Director and Chief Operating Officer, Quislex



Rupali Shah, True Legal Partners



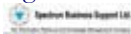
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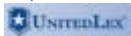


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We expect to announce upcoming events of interest to the LPO industry, will feature an LPO monthly in our "LPO Profile" feature, and intend to launch a "Corporate Counsel Corner" to hear from those who have had LPO experience from the user perspective.

We welcome reader feedback to **LPO Network**, invite reader submissions, and encourage you to share this resource with others. To unsubscribe, simply click UNSUBSCRIBE at the end of the issue, and to add others to the circulation list, send me an email or click the SUBSCRIBE button and fill in the subscriber information.

The 79,000 Lawyer Question by Andrea Lee Negroni

The figure seventy-nine thousand is frequently tossed around by those discussing legal outsourcing to India; it is the number of US legal jobs expected to be outsourced to India by 2015, as predicted in fall 2005 by the firm of Forrester Research. The Forrester prediction made headlines around the world when it was released. In India, news headlines proclaimed "79,000 jobs on offer!" as if all one had to do was show up with a law degree in hand to replace an American lawyer. The 79,000 figure was a huge increase over the 12,000 legal jobs that Forrester estimated were outsourced from the US to India in 2004.

It is not yet 2015 so there is no way to know if the 79,000 is accurate, but in the meantime, not everyone readily accepts the Forrester figure. Furthermore, of the 79,000, not all are expected to be lawyer jobs – many will be paralegal and other legal support positions. However, perhaps encouraged by the enthusiasm generated by the 79,000 estimate, legal process outsourcing (LPO) vendors have proliferated, giving every indication that at least some folks have confidence that Forrester is on the right track.

Law firms in particular have been outsourcing work to India for at least five years, if one considers legal outsourcing to include contracting out of legal support functions such as paralegal, accounting, and IT services. What is new is the movement toward s-called value added legal services, by which Indian lawyers will perform professional legal services for clients, whether those clients are law firms, publishing companies or corporations. LPO providers are eagerly seeking entry into the legal field, and many have hired US attorneys to represent them in tapping into the US legal services market.

A significant number of India-based LPOs have set up offices in the US and many have attorneys who are admitted to practice in the US. The US-admitted attorneys (particularly if based in the US) are not likely to be producing the lion's share of the legal work, however, because that would undermine the cost savings to be achieved by the use of lower-priced Indian lawyers. Mostly, the US attorneys are engaged because they know the American legal system, they have

experience in firms and corporate law departments, and they can communicate easily with the potential clients, without language, cultural or similar barriers.

The established LPOs entered the US legal market by performing tasks such as document review and document management to support large-scale litigation, which is a huge budget item for litigation. However, the LPOs are not likely to remain satisfied with this relatively low level routine work for long; if legal outsourcing does succeed, the LPOs will eventually transition their services to high level intellectual work on a par with US and European firms. In the meantime, they will gain experience and grow their staffs by saving money for firms and corporations engaged in expensive litigation, an undertaking with no apparent end in sight.

The document handling and review involved in large-scale litigation has increased geometrically with the increase in email and electronic communications. More documents mean more potential evidence potentially relevant to a dispute. Even information on Blackberries and other PDAs can be relevant in litigation. Electronic document creation has obviously contributed to the number of potentially relevant documents requiring review, but so has the ease and low cost of electronic document storage. Companies are sometimes afraid to destroy any information at all, which means that huge volumes of stored electronic records must also be reviewed in response to a request for production of documents.

The cost of document review can be anywhere between half and three-quarters of the total cost of litigation, according to legal experts. KPMG estimates that first level document review can consume 58-90% of total litigation costs. [*See Dario Olivas & Michael Dolan, "Legal Process Outsourcing of First Level Document Review," in sourcingmag.com.*] Any vendor that can punch a hole in such a large portion of the expense without jeopardizing quality or the outcome of the case ought to be in high demand.

A primer for those considering legal outsourcing for the first time begins with an explanation of the type of tasks that can be quickly outsourced, and that the LPOs have prior experience with. First among these would be first-level or primary document review, which means the decision-making involved in determining whether specific items are responsive to the case or the discovery. In this review, document reviewers (usually paralegals or lawyers) scan items to determine if they are responsive to information requests. The responsive documents are segregated from the non-responsive ones in this phase of the work. First level document review is also used to identify confidential documents subject to protective orders, privileged material and attorney work product.

Primary or first-level document review is already outsourced by

many large firms, in the form of subcontracting with legal staffing firms that provide temporary lawyers (sometimes called contract attorneys). Firms that outsource to US-based legal staffing agencies but hesitate to use Indian LPOs may harbor the belief that they are more in control of the lawyers and paralegals from a local staffing agency than they would be if the work was being done half a world away.

Technology provides one obvious response to the concern about contract attorney control and supervision. And technology is where India shines. Virtually all major IT companies already outsource programming to India, where computer programmers and electronic engineers earn about 1/6 of comparable US salaries. Application of technology to document review processes has resulted in proprietary software that enables document reviewers to use sophisticated tools in their work. The subjective element of the document review effort is reduced, and the results of the review (and the performance of individual reviewers) can be evaluated more easily with such high-tech software programs.

Another advantage to the LPO model is that the LPO lawyer employees are regular employees, not contract personnel who come and go arbitrarily. With traditional legal staffing agencies, there is little predictability about which lawyers will be available, or for what cases. The convenience that drives many American lawyers to work for staffing agencies in the first place (part-time schedules, ability to work around life events such as maternity leave or disability, temporary need or desire for work and income rather than commitment to a career) can be a disadvantage for the companies and firms that rely on temporary lawyers. Furthermore, as many formal surveys and weblogs show, the temporary lawyers themselves are frequently unhappy about doing so-called temp work, its conditions, and the pay. Unhappy contract lawyers doing temporary work without an expectation of promising career prospects can lead to output of uncertain quality. [*Olivas & Dolan, infra, have described temporary contract attorneys as having a day labor mentality.*]

In India, on the other hand, working in an LPO is a prestigious situation for many lawyers. (This subject is discussed in this issue in Hiren Patel's article **LPO Companies Attract Top Legal Talent**.) The cost-savings in using Indian lawyers cannot be minimized – some of these lawyers earn salaries that are about 1/10 of the US equivalent. Because there is continuous employment, the attorneys involved are less likely to have to be trained and re-trained with every assignment. LPOs have little incentive to keep non-performing individuals on staff, whereas a legal staffing agency will not know in advance whether the legal skills of any particular lawyer are weak or strong, and the clients pay for both the good and the bad, usually on an hourly basis. Taking these factors together, it makes a great deal of sense for litigators at both law firms and corporate counsel to

consider the potential benefits of working with LPOs.

Initial steps in working with LPO vendors may involve:

1. Meeting with various LPO representatives to learn about their offerings and abilities. [Note: **LPO Network** will publish an LPO Directory which will be available through the website www.legalprocessoutsourcingnetwork.com.]
2. Attending meetings on the LPO industry to learn about ethical, billing, security and other practical aspects of the LPO industry, especially as conducted offshore.
3. Assigning a small, low-risk project to a selected LPO to evaluate the quality of the work.
4. Producing a Request for Proposal for issuance to a number of selected LPOs and evaluation of the responses, with the possibility of testing several LPOs on an assignment in order to determine which companies are deserving of more permanent relationships.

Indian LPOs Attract Top Legal Talent

by Hiren P. Patel



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When American companies and law firms consider the use of India-based LPOs for core legal work, they wonder whether the work of Indian attorneys will be of a quality similar to that of their western counterparts. For the reasons described here, I suggest that the level and quality of work produced by Indian attorneys can be impressive even when compared directly to that of equivalent American attorneys.

There are many reasons to expect and receive high quality work from Indian attorneys. English is the language of the Indian legal education and judicial system. Lawyers undergo five years of legal education in a common law system. While it may be difficult for an American client or company to rank law schools on the basis of the education provided, there are some widely accepted views. For example, The National Law School of India is considered by many to be the best law school in India. The Gujarat National Law University was founded in 2003, but in a few short years, it has taken substantial steps to attract high quality students and to provide them with a top quality education. Experience may be easier to judge than law school rankings, however, especially as many new law schools are coming online as the demand for Indian attorneys by multinationals increases.

Our company focuses on recruiting lawyers with some experience because it is easier to judge their abilities if they have done similar work at an advocate's or solicitor's office. While the practice of law in India differs in many respects from American practice, many of the skills that graduates develop in the first few years are similar in both countries. Junior Indian attorneys develop their analysis and writing skills, and learn to handle client relations. Moreover, some LPO companies take training very seriously, often requiring their attorney employees to undergo special training courses complete with tests they must pass before being assigned actual work.

Another factor that is often overlooked is the unique position of the nascent LPO industry in India.

LPOs have been able to attract top legal talent in India, essentially choosing lawyers from the cream of the crop, even though long term employment with an LPO may ultimately detract from an Indian attorney's career prospects within the traditional Indian legal system. LPOs attract top level talent for three main reasons:

1. they take a meritocratic approach to hiring and employee management;
2. LPOs enjoy prestige among law graduates in the marketplace, because the knowledge outsourcing industries (BPO, KPO and LPO) are sought-after employers; and
3. LPOs may offer superior compensation to young attorneys earlier in their careers.

One of the major differentiating factors between LPOs and many (though certainly not all) Indian law firms is the approach to hiring and retaining employees. LPOs are influenced heavily by the Western concept of meritocracy, where employees are hired and retained based on their achievements and performance. The Indian legal profession, on the other hand, still suffers from a significant degree of nepotism and gender bias. Nepotism and gender bias prevent many competent attorneys from achieving their professional goals within traditional practice. As a result, a significant portion of the available legal talent in India is under-utilized. These attorneys – many of them women who face gender bias as a part of everyday life in India – are not properly valued based on their talent and skill sets. Moreover, culturally based gender discrimination by courts and clients may perpetuate the under-utilization of women and lawyers and those without prior "connections" in the profession or in business.

In LPOs, employees are generally reviewed without regard to gender or personal connections. High performers are given additional responsibilities commensurate with their skills. The meritocratic nature of the LPO industry makes it highly attractive to under-utilized but talented Indian attorneys. Simultaneously, nepotism and gender bias in the profession result in lawyers seeking alternate career paths. So while LPOs compete with established law firms and other legal employers for top quality talent overall, they enjoy a distinct advantage among potential employees who do not see a beneficial career path in traditional Indian legal practice.

Compounding this effect is the high regard in which many Indian attorneys hold established LPOs. LPOs often handle complex legal matters for multinational corporations and clients. This exposure to "international" business and law is perceived as an excellent opportunity to learn more about various legal systems and perhaps as a stepping stone to actual work or study abroad. LPOs also tend to provide high quality working conditions in modern offices plus perks ranging from air-conditioning to flexible work schedules to complimentary food and beverages. These factors place the LPO industry in a favorable light when compared to the majority of traditional legal jobs available in India.

Even with a meritocratic approach to employment and a superior workplace reputation, LPOs must provide competitive compensation because the Indian labor market is notoriously elastic. Slight differences in pay – sometimes as little as the equivalent of \$10 per month – can lure an employee from one employer to another. The LPO industry routinely matches or exceeds the compensation available in traditional legal practice for employees of all types, including those who through personal connections might be able to obtain coveted employment in a traditional Indian legal practice. It is as-yet unknown whether a long-term career in an LPO can match the compensation of the top private practitioners in India, but many recently graduated lawyers are unwilling to wait decades or longer for a level of economic comfort and security.

These three principal factors, taken together, lead to a ripe opportunity for the LPO industry in India to attract top quality legal talent from a large available labor pool. When this top talent is coupled with sufficient training and supervision, the result is high quality work product in sophisticated matters that meets and often exceeds the expectations of Western clients.

LPO Security: Myth Versus Reality by Karlyn D. Stanley



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Myth: Indian security procedures for handling confidential client information are looser than procedures in American law firms and corporate legal departments.

If you gain one thing from reading this article, it should be the realization that security procedures in Indian business process outsourcing (BPO) and legal process outsourcing (LPO) facilities far exceed those in most American law offices or corporate legal departments. In February 2007, I visited BPOs and LPOs in Bangalore, Pune and Mumbai (Bombay), India. They ranged in size from extremely large—a world-class BPO in Bangalore with thousands of employees—to a start-up LPO in Pune that employs approximately 40 lawyers. The common denominator among them was high security standards.

I observed at least 16 levels of physical security used in various combinations by BPOs and LPOs including:

- "Locked" workrooms—no media, CDs, pin drives, personal computers, cameras or cell phones in the workspace;
- No personal possessions (including purses, backpacks) in the secure workspace (lockers for employees' personal articles are usually provided in exterior hallways);
- "Wandering" of employees and guests with a security device upon entry and exit;
- No access to the Internet by BPO/LPO workers; downloading of files prohibited;
- "Thin client" server, no access by workers to client database;
- No paper permitted to leave the secure work area;
- Surprise security sweeps of computers by management;
- Security cameras overhead in work and public areas;
- Physical examination of purses, backpacks and containers by security guards;
- Examination of trunk and engine compartment of vehicles entering company campuses;
- ID of drivers and car passengers prior to entry into campus or parking area;
- Personal escort of guests through buildings;
- Guests wear visible ID badges at all times;
- Use of key card, password or finger print access to every secured workspace;
- Employees have access only to their work-related secured space within the BPO/LPO;
- Outside security audits, with internal and external quality control reviews.

How do these LPO/BPO security practices compare to the way confidential client information is handled in most US law firms and corporate legal departments? Indian LPO/BPO security is uniformly better, from the perspective of my personal experience in private law firms and corporate legal departments. In most American law firms, client documents are left in workrooms or conference rooms without any special door locks or key cards restricting access to specific personnel. Similarly, company files with highly proprietary, confidential business information are

often stored in unlocked file cabinets in unsecured file rooms in corporate law departments. These law firms and corporate law departments depend solely on rudimentary perimeter security methods. Often, this means only a receptionist (who is sometimes an outsourced employee or a "temp") and a sign-in book. In many American law firms, once someone passes the reception desk, he or she is basically free to wander the halls of the law firm.

A blind spot for most American law firms and corporate law departments is the housekeeping staff that comes in to work after the business day has ended. Often, the cleaning crew is provided by an outside contractor, and its employees have not passed any security check imposed by the law firm or legal department. The cleaning staff has access to attorney's offices, wastebaskets, files left in conference rooms and unlocked file cabinets full of confidential information. There is generally no supervision of the cleaning staff by the law firm or legal department. The same is usually true of catering personnel, IT contractors and other business-related visitors.

American litigators are familiar with the practice of using "contract" or "temporary" attorneys to assist with large-scale projects such as reviewing documents produced in discovery, summarizing deposition transcripts, and assembling trial exhibits and materials. Contract attorneys are usually hired by a law firm's administrator from an agency that provides temporary attorneys. It is unlikely that the law firm performs an independent background check on each temporary attorney it hires, because the firm relies on the staffing agency to do this. Often, these "temporary" or "contract" lawyers are given a workspace remote from their law firm supervisors. For example, my old law firm rented space on a separate floor of our office building to accommodate the temporary attorneys. Looking back on it, it would have been easy for one of these attorneys to copy a document, take notes about it or photograph it with a cell phone camera. The paralegals supervising the temporary attorneys were unable to be present in the workroom at all times, because of the requirements of different projects. Since the space was rented on a temporary basis, no key card protection or special locks were added to secure the work space. To my knowledge, there was no effort to prevent the temporary attorneys from bringing purses, knapsacks and cell phones into the law firm work space.

In stark contrast, Indian LPOs prohibit any personal items being brought into the secure work space. Individual lockers outside the work room are provided for all employees. The work room where confidential data is handled is usually controlled with key card, pass code or, in one instance, fingerprint security access. I observed supervisors monitoring the work of employees, and was told that supervisors were present at all times in the work space.

I know some of my American lawyer friends imagine an LPO work room in India as featuring large, open windows, ceiling fans, people chatting and moving in and out of the work space, perhaps a tea cart making the rounds. The image is of a slightly dumpy office, where people are dressed exotically and there are papers strewn about in mild disarray. What I observed in all the Indian offices I visited were modern, air-conditioned, controlled-access rooms full of neat cubicles and quiet attorneys working under close supervision. The irony is that the lax security American lawyers may imagine exists in far-away India probably exists in their own offices or law departments, if they would only take a few minutes to walk down the hall and investigate. The reality is that American law firms and corporate law departments could learn security techniques from Indian LPOs.

Security & Client Confidentiality at LawScribe, Inc. by Kunoor Chopra, CEO



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Reputable LPOs are well aware that American clients focus much attention on the security issues associated with the transmission of data to foreign sites. For this reason, many LPOs, including LawScribe, have established rigorous security measures focused on data protection and the preservation of confidentiality. In addition to the physical data safeguards described by Karlyn Stanley in her article, "LPO Security Issues: Myth Versus Reality," additional security measures would appropriately include separation of the LPO's intranet server and the data server, with a firewall for LAN and WAN; relay of data predominantly via broadband with a secure server with all electronic entry points being secured and all data movement within the system being logged; password protection of every

folder and computer; prohibition on access to personal emails by employees; and restriction of data sharing between different teams working on different projects. Physical safeguards are insufficient standing alone, however; an LPO working with confidential client data must implement administrative, managerial and procedural safeguards as well. These will be the subject of future articles in LPO Network.

LPO Profile -- Aphelion Legal Solutions by LPO Network Staff

U.S. Headquarters: Houston, TX

Indian Locations: Ahmedabad, Gujarat and Chennai, Tamil Nadu

Website: www.aphelionlegal.com



In December 2004, attorney Hiren Patel was sitting in his San Diego office at the law firm of Gray Cary Ware & Freidenrich, reviewing documents in an IP litigation. Curiosity whether document review could be outsourced to lawyers in India led him to call his friend Aaron Lawlor, a classmate from the University of Virginia School of Law. Aaron was doing similar work at the Tyson's Corner, Virginia office of the Womble Carlyle firm. This initial call to discuss the possibility legal process outsourcing (LPO) got the ball rolling for Hiren and Aaron.

After several months of researching the LPO concept, Hiren and Aaron decided to focus full time on building an LPO. By early 2006, they had set up a company and trained a small group of Indian attorneys in Chennai to handle basic litigation support work. Their initial work assignments were occasionally handled for no charge, to further their understanding of the dynamic of working with Indian attorneys. Based on their initial experiences with small projects, the two re-defined Aphelion's business plan and goals in 2006. They recognized they would need significant India-based resources and infrastructure to deliver maximum value to American clients, especially with respect to high-volume projects such as major document reviews.

In late 2006, Hiren's friend and former Gray Cary colleague Kunal Patel (no relation to Hiren) joined Aphelion. Kunal was instrumental in finding a partner to help Aphelion expand its India-based resources. Aphelion now works with Manubhai & Company ("M&C"), an established professional outsourcing company, and through this relationship, it has secured rights to use a new state-of-the-art office space in India, with information and physical security controls superior to those in many US law firms and document review staffing facilities. M&C's outsourcing center has been operating for seven years providing tax, accounting, back office, secretarial, and IT services for American, British, and Australian clients.

Aphelion is a new company with the vision and energy of its young founders driving its growth. Hiren's, Aaron's, and Kunal's combined experience with AmLaw 100 firms includes high value

litigation, large scale discovery work, and contract drafting and management. This experience, coupled with the outsourcing expertise of M&C, means Aphelion can offer reliable legal and legal support services for western clients. The company's initial niche is high volume discovery work and law practice management support. More information about Aphelion is available on its website and the founders are available to discuss the company's services or the LPO industry in general with interested parties. Contact Hiren Patel at (713) 328-6865 in Houston, Texas USA.

Pictured left to right: Hiren Patel, Kunal Patel and Aaron Lawlor in their LPO facility in India, April 2007.

Network, *noun*. (1) an open fabric woven of interlaced and knotted strands; (2) something made up of interdependent or related parts; verb. (1) communicate. Synonyms: acquaint, advise, announce, broadcast, collaborate, connect, connections, contact, convey, correspond, disseminate, enlighten, inform, interface, interchange, link, proclaim, publicize, publish, relate, tell, transmit. [*Roget's New Millennium™ Thesaurus, First Edition*]

